FILED
APR 28 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. Martin MENDEZ-Lagunas, Defendant.	Mag. Case No. '08 MJ 8357 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found In the United States

The undersigned complainant, being duly sworn, states:

On or about April 26, 2008, within the Southern District of California, defendant Martin MENDEZ-Lagunas, an alien, who previously had been excluded, deported, and removed from the United States to Mexico was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States code, section 202(3) and (4) , and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

MARCO A. MIRANDA
Senior Patrol Agent

SWORN TO BEFORE AND SUBSCRIBED IN MY PRESENCE THIS 28th DAY OF APRIL 2008.

Peter C. Lewis
United States Magistrate Judge

I, Senior Border Patrol Agent Marco Miranda declare under penalty of Perjury, the following is true and correct:

PROBABLE CAUSE STATEMENT

The complainant states that this complaint is based upon the statements of the apprehending Border Patrol Agent, J. Bottcher, that the Defendant was found and arrested on April 26, 2008 west of the Calexico, California Port of Entry.

BPA Bottcher was performing his assigned Border Patrol duties approximately .5 miles west of the Calexico, California Port of Entry. The Remote Video Surveillance System Operator advised agents of four suspected illegal immigrants that were attempting to gain illegal entry into the United States by swimming north through the New River, which flows from Mexico into the United States. BPA Bottcher responded to the area and observed four individuals one, later identified as Martin MENDEZ-Lagunas. BPA Bottcher identified himself as a Border Patrol Agent and ordered the subjects to exit the New River. Agent Bottcher questioned the subjects as to their immigration status to be in the United States. MENDEZ and the other three subjects stated that they were citizens and nationals of Mexico and illegally in the United States. All four subjects were placed under arrest.

Record checks revealed that an Immigration Judge ordered MENDEZ deported to Mexico from the United States on February 20, 2003. Record checks also revealed that MENDEZ had an extensive criminal history.

At approximately 0740 hours, MENDEZ was advised of his Miranda Rights in the Spanish language by Agent A. Luzbert and witnessed by Agent I. Valverde. MENDEZ acknowledged understanding his rights and was willing to answer questions. MENDEZ stated that he did not have any legal documents that would allow him to work in or reside in the United States. MENDEZ also stated that he last entered the United Stated through the river. MENDEZ was questioned regarding his deportation and MENDEZ said that he had previously been deported. There is no evidence ROMERO has sought or received permission from the Attorney General or the Secretary of the Department of Homeland Security to re-enter the United States.

Executed on April 26, 2008 at 1055.

Senior Border Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page, I find Probable cause to believe that the defendant named in this probable cause statement committed the offense on April 26, 2008 in violation of Title 8, United States Code 1326.

Nita L. Stormes
United States Magistrate Judge

4-26-08 @ 11:45 AM
4/26/08 1055

TOTAL P.01